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NATIONAL STATE-OWNED ENTERPRISE BILL

SUBMISSION

FREEDOM FOUNDATION & IZWE LAMI

Thank you, and Request for Oral Submission

We thank you most sincerely for (a) the opportunity to make this Submission and (b) the opportunity to make an Oral Submission, which we hereby request.

Summary

The Freedom Foundation & Izwe Lami (FF), a proud advocate of prosperity for all, economic freedom, limited government, and individual liberty, opposes the National State Enterprises Bill for the reasons below. Whilst we appreciate the need to address the national, financial and delivery disaster that characterises our current portfolio of state-owned enterprises (SOEs), this Bill provides no solutions. Instead, it is likely to exacerbate failure because it (a) envisages the government doing what it should not do in principle, (b) perpetuates failed apartheid-era ‘dinosaurs’, (c) centralises power and central planning in a manner that has already failed here, and has been discredited worldwide, (d) erodes accountability, (e) exacerbates inefficiencies, and (f) adds fuel to the fire of real or suspected corruption.

The proposal amounts to an ominous replica of the failed Department of Public Enterprises. The lesson to be learned from it is that the model of centralised control is conceptually flawed. Cosmetic changes and new terminology are as seductive as they are misplaced.

Primary Purpose of Government

The government's primary purpose is to do for the public what 'the market' does not do or cannot do. 'The market' is everyone individually and collectively. ***Every cent spent by the government on a superfluous SOE is a cent diverted from the poor who would otherwise have received better essential services and welfare.***

South African Airways (SAA) is the classic example. Like other SOEs, it was an outmoded apartheid monopoly. When competition was allowed domestically ('open skies') it's domestic market share collapsed from around 95% to around 10%. Instead of getting the R55 billion for which SAA could have been sold, the government spent that much on bailouts and guarantees. The net loss has therefore been over R100 billion. That could have built 100,000 RDP houses, The 2022 census recorded 55,719 homeless people. Every homeless household (assuming an average of four) could have been housed four times over.

SAA was and remains a direct subsidy of the rich (who fly) by the poor (who do not fly).

Instead of a national shame that continues diverting money from the poor, we could have increased the number of police from 180,000 to over 200,000 for ten years. Superfluous SOEs increase the number of people who are raped, robbed and murdered substantially.

Economic Reality & Solutions

The thing to grasp about SOEs is that everything spent on A is diverted from B. The question that must be asked and answered in each case is which sacrifices we are willing to make to perpetuate superfluous SOEs.

Every SOE where 'the market' can perform the function, or where the function is inherently superfluous, should be liquidated, sold, or given to employees and/or their unions. The word 'privatise' is avoided irrationally. Superfluous state assets can and should be disposed by ***one or a combination*** of the of following methods:

1. **Employee Share Ownership Scheme (ESOPs)**. Share can be given to employees directly or b way of schemes. This empowers, enriches and motivates employees to tun a failed SOE into a source of pride.
2. **Management Buy-out.** SOEs can be sold to managers thus converting employees to owners. And inspiring efficiency, governance and accountability.
3. **Sale**. The enterprise can be sold thus enriching the government and the public it serves instead of impoverishing them further.
4. **Discontinue**. The government might simply stop doing what it should not be doing thereby allocating resources where they belong.
5. **Deregulate**. Where an SOE is protected by regulations and/or subsidies, all that is require is a liberalized 'level playing field'.

6. **Public-private partnerships (PPPs)**. As stressed by President Ramaphosa in his State of the Nation Address (SONA), private sector expertise and capital should be harnessed for SOEs that are retained because they are considered essential.

Governments cannot be as efficient as the private sector.

One of the motivations for this Bill is a desire to make what the government does more efficient, ethical and accountable. It must be understood that what governments do cannot be as efficient as what people do privately. This is because there are built-in unavoidable *positive* private incentives and *negative* government incentives. ***This is why the government should confine itself to what the private sector is not willing to do spontaneously.*** This truth is captured by the observation that in the private sector a 'busy day' is a good day and in the government sector a 'busy day' is a bad day. It is welcomed by all concerned in a government post office or hospital, for instance, to have fewer customers and for a private bank or hospital to have more. This well-documented negative versus positive incentive effect is an inherent reality that cannot be changed. It is why governments – all governments – should get out of that which individuals or firms are willing and able to do.

Should individuals or firms not do spontaneously what is wanted by the government, functions can be outsourced (under strictly competitive and monitored conditions).

Contestability

Concerns are often raised about the 'profit motive' being an incentive for employees and/or the public to be 'exploited'. The simple, proven and obvious solution is, of course, ***contestability***, that is freedom of entry for competition (from start-ups to multinationals).

The lack of SOE competition (on a 'level playing field') is one the reasons for SOE incompetence and failure.

Political Interference

Turning to other aspects of the current draft, it does not go far enough to prevent political interference in State Asset Management SOC (SAMSOC) Board appointments. The President is not obliged to follow the recommendations of the nomination process or publish reasons for failing to do so. ***Political interference has been identified as a major cause of SOE failure.*** Built-in perverse and negative incentives are by far the most important reasons for failure and corruption. All concerned from the highest levels down pay no price for being wrong in management and allocation of other people's money. This critical truth is easily ignored.

The Bill needs unambiguous checks and balances to ensure accountability and excellent governance.

PFMA

There is no requirement to follow the Public Finance Management Act (PFMA) meticulously or at all, and there is no mention of Public Procurement Bill law and therefore no effective checks and balances or spending limitation on the Board of SAMSOC. Given the history of corruption and misspending, particularly concerning procurement, in SOEs, this is a serious omission.

Accountability & Decision Making

The Bill blurs the boundaries of accountability and decision-making between the Board of SAMSOC and that of the subsidiary SOE. For example, it wrongly requires the Board of SAMSOC to make capex and provisioning decisions.

The Bill imposes financial reporting requirements that are unrealistic (given the SOE record) without the implementation of a mechanism to do so.

The Bill requires the Board to consider the often-conflicting objectives of development or sustainability and public interest, without specifying overriding objectives and KPOs.

If history has taught us anything, it is that giving officialdom unconstrained control is like giving the fox the keys to the chicken coop.

The World's Experience

This proposal would, if implemented as is, emulate Venezuela's notorious experiment in which nationalised industries were placed under a single centrally controlled entity. What followed this and related measures was economic collapse, resource mismanagement, and a generation trapped in poverty. Centralisation of this nature backfired there and wherever else it was tried. We must learn from the world's experience.

Closer to home, Zambia in the 1970s took a similar route, creating a mammoth entity to manage critical industries. By the 1990s, the inefficiency and corruption within these SOEs forced the government to privatise much of what was left.

The world's experience teaches that centralised power seldom improves outcomes.

South Africa's Experience

South Africa has experienced unchecked SOEs. Eskom's lights were dimmed by decades of mismanagement. SAA took the public on a staggeringly expensive flight to nowhere. This Bill essentially aims to

consolidate SOEs under a single "Mega-SOE," as if a combination of negatives equals a positive.

The Zondo Commission uncovered the dangers of unchecked power and centralised control. This Bill would increase rather than reduce those risks. It would provide a few people with access to many billions thereby inviting another era of State Capture.

Instead of ending superfluous SOEs, or fixing truly essential SOEs, or allowing private sector services and innovation to thrive, the Bill envisages a structure more likely to perpetuate SOE failure that end it. The solution to failed SOEs is not to consolidate them under a single potentially failed SOE, but to liberate them. Each should be liberated in context according to the options listed above rather than constrained as they were when under the single department that was doomed to fail by virtue of its institutional nature as opposed to its personnel.

There is a mistaken inclination to think of SOEs as the pride of the nation, or the government, but that is a limited and short-sighted view of what gives a nation pride. It is especially misplaced given that all the current SOEs are inherited from apartheid. Unleashing and enabling exceptional achievements amongst private citizens, and then being proud of the resulting thriving economy, arts and sciences, is what our nation needs. There are many successes to emulate, with Singapore being, in this context, a pre-eminent exemplar.

The solution is not bigger government with a heavier hand. SOEs that are retained should be autonomous (liberated) with freedom of private competition, as emphasised by President Ramaphosa in his State of the Nation Address (SONA), is the preferred option.

RECOMMENDATIONS

1. **Discontinue Superfluous SOEs:**
   Discontinue all SOEs where the market is willing and able to perform the relevant functions. Apply one of the above six mechanisms as appropriate.
2. **Decentralise:**
   For truly essential SOEs, liberate them to be autonomous subject to effective checks and balances. Allow all retained SOEs to compete freely and face free competition as stressed in the recent SONA. This will bring expertise, innovation, capital, and accountability to areas that have been characterised bureaucratic inefficiency.
3. **Learn from the Zondo Commission:**
   Enhance oversight, transparency, and accountability within existing frameworks. Avoid recreating the conditions that allowed corruption to thrive. Prevent the possibility of political interference.
4. **Acknowledge Global Failures:**
   Study examples from other nations and abandon failed central planning.

5. **Extend Public Consultation:**
   South Africans deserve more time to understand, debate and assess the implications of this Bill. Long-term planning is underway. There is no rush. What is decided now will impact South Africans for decades. We do not need rushed decisions and do need thoughtful and informed dialogue.

Rather than the National State Enterprises Bill being a step forward, it might be a perpetuation past mistakes which were characterised by inefficiency, corruption, and stagnation. The Freedom Foundation urges the government to revisit this Bill and explore solutions grounded in the government sticking to its core functions, decentralisation, SOE autonomy, free competition, and fiscal rectitude.

Yours in liberty

Leon Louw
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Freedom Foundation is a non-partisan, non-profit §18A organisation dedicated to promoting liberty and prosperity for all. We advocate policies that reduce government overreach, empower communities, and create an environment where economic and personal freedoms are secure. Through research, advocacy, and public engagement, we work to ensure that South Africans can thrive in a society built on transparency, innovation, and self-determination.